

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

LISA M. BALLENGER,

Plaintiff,

V.

COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,

Defendant.

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Case No. 6:21-cv-95-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Lisa M. Ballenger filed this action pursuant to the Social Security Act, Section 205(g), seeking judicial review of the Commissioner of Social Security's denial of her application for Social Security benefits. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

On March 8, 2022, Judge Love issued a Report recommending that the Court affirm the ALJ's decision and dismiss this case with prejudice after considering Plaintiff's three arguments. Docket No. 15. *First*, Judge Love found that Plaintiff validly waived her right to representation at the administrative level. *Second*, Judge Love determined that the ALJ properly considered the relevant medical evidence. And *third*, Judge Love found that Plaintiff did not properly plead her constitutional claim concerning removal of the Commissioner. Judge Love also noted that, even if Plaintiff had properly pleaded the constitutional claim, she still failed to demonstrate

harm based on the unconstitutional removal restriction. Plaintiff has not objected to the Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").


Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law as to the Report's findings that Plaintiff validly waived her right to representation, the ALJ properly considered the relevant medical evidence, and Plaintiff did not properly plead her constitutional claim.<sup>1</sup> Accordingly, the Court

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<sup>1</sup> Because Plaintiff did not properly plead her constitutional claim concerning the removal restriction on the Commissioner, the Court does not consider the merits of that claim, including whether Plaintiff failed to demonstrate harm.

hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 15) as the findings of this Court. It is therefore **ORDERED** that the Commissioner's decision is **AFFIRMED**, and this cause of action is **DISMISSED** with prejudice.

So **ORDERED** and **SIGNED** this **19th** day of **April, 2022**.

  
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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE